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IDENTICAL LETTERS DATED 11 JUNE 1997 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL AND TO THE PRESIDENT OF THE SECURITY COUNCIL

On instructions from my Government, I have the honour to transmit to you herewith a letter dated 11 June 1997 from Mr. Mohammed Said Al-Sahaf, Minister for Foreign Affairs of the Republic of Iraq. The letter states that there is information to the effect that items whose removal from Iraq is prohibited were in the luggage of the Special Commission's Chilean helicopter crew and that the Special Commission has refused to allow the luggage to be inspected.

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

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Annex

Identical letters dated 11 June 1997 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General and to the President of the Security Council

In addressing to you this letter on an important matter relating to the actions of the Security Council's Special Commission, I should first like to convey to you the assurances of my sincere esteem. The facts and details concerning the actions in question are set forth hereunder.

1. Boxes containing the personal effects of members of the Chilean crew working on the Special Commission's helicopters were to have been taken out of Iraq by way of Habbaniyah airfield on 5 June 1997. The relevant Iraqi authorities have had available to them information to the effect that the boxes contained items whose removal from the country is not permitted under Iraqi law.

2. Accordingly, the authorities informed the Director of the Special Commission's Baghdad Monitoring and Verification Centre (BMVC), Mr. Nils Carlström, and requested him to proceed to Habbaniyah airfield so that a joint inspection of the boxes could be carried out in his presence in order to check the information received. The BMVC Director, however, rejected this proposal and insisted, given the immunities enjoyed by persons working for the Special Commission, that the boxes should be returned to the Centre where he would inspect them without the participation of the Iraqi side. We rejected this proposal as involving an illegitimate interpretation of the immunities in question. I refer in this connection to article 36, paragraph 2, of the Vienna Convention on Diplomatic Relations, which clearly states that any inspection shall be conducted by the authorities of the receiving State in the presence of the diplomatic agent or of his authorized representative. The immunities of persons working for the Special Commission are no different from those of a diplomatic mission as set forth in the Vienna Convention, and the Special Commission is well aware of that fact.

3. On 6 June 1997, the political adviser to the Executive Chairman of the Special Commission in New York, Mr. Gustavo Zlauvinen, proposed to Mr. Sa'id al-Musawi, our Deputy Permanent Representative to the United Nations, that we should accept the proposal that an inspection be carried out inside the BMVC, on the understanding that the Executive Chairman of the Special Commission, Rolf Ekéus, would then not inform the Security Council of the alleged helicopter incidents. We rejected this offer.

4. Except for the boxes under suspicion, no obstacle has been raised to the removal from the country of crates and equipment belonging to the Special Commission.

We regard the conduct of the Chilean crew in trafficking in items whose removal from the country is prohibited as being in violation of the country's laws, as inflicting deliberate damage on the national economy and as the commission of premeditated acts that are incompatible with our laws.

The immunity claimed by the Special Commission for cases such as these has no basis in international law or custom or in the standards of conduct incumbent on those who function on behalf of the United Nations.

By its circular note No. 11/84/100/98156 of 16 September 1995, the Ministry of Foreign Affairs of Iraq informed the Special Commission and all accredited international and regional organizations and diplomatic missions in Baghdad that, in view of the circumstances created by the embargo unjustly imposed on Iraq, the customs authorities at border crossing points would be obliged to inspect luggage suspected of containing items whose export or removal from the country was not permitted and that they would do so in the presence of a representative of the Ministry of Foreign Affairs and a representative of the mission concerned. The Ministry annexed to its note a list of those items whose removal from Iraq is prohibited.

Accordingly, the removal of such items from Iraq under the cover of the missions of the Special Commission is to be regarded as blatant exploitation of its terms of reference as set forth in the relevant Security Council resolutions and as the infliction of deliberate harm on Iraq and on its national interests.

I should be grateful if you would bring this letter to the attention of the members of the Security Council.

(Signed) Mohammed Said AL-SAHAF
Minister for Foreign Affairs
of the Republic of Iraq